

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

)	Civil No. 07-1097-BEN(LSP)
L3 COMMUNICATIONS TITAN)	
CORPORATION,)	
)	NOTICE AND ORDER FOR EARLY
Plaintiff,)	NEUTRAL EVALUATION AND CASE
v.)	MANAGEMENT CONFERENCE
)	
KTECH CORPORATION,)	
)	
Defendant.)	

IT IS HEREBY ORDERED that an Early Neutral Evaluation ("ENE") of your case will be held on September 19, 2007, at 9:00 AM before United States Magistrate Judge Leo S. Papas, United States Court-house, Courtroom G, First Floor, 940 Front Street, San Diego, California.

Pursuant to Rule 16.1(c) of the Local Rules of the United States District Court for the Southern District of California, both counsel and the parties who have full and unlimited authority¹ to

¹ "Full authority to settle" means that the individuals at the settlement conference must be authorized to fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to have "unfettered discretion and authority" to change the settlement position of a party. Pitman v. Brinker Intl., Inc., 216 F.R.D. 481, 485-486 (D. Ariz. 2003). The purpose of requiring a person with unlimited settlement authority to attend the conference

1 negotiate and enter into a binding settlement shall appear in person
2 at the conference and shall be prepared to discuss the claims,
3 defenses and damages. Where the suit involves the United States or
4 one of its agencies, only counsel for the United States with full
5 settlement authority need appear. All conference discussions will
6 be informal, off the record, privileged and confidential.

7 Patent L.R. 2.1.a requires that an ENE take place within 60
8 days of the filing of the first answer. Requests to continue ENEs
9 are rarely granted. However, the Court will consider formal,
10 written *ex parte* requests to continue an ENE conference when
11 extraordinary circumstances exist that make a continuance appropri-
12 ate. In and of itself, having to travel a long distance to appear
13 in person is not "extraordinary." **Absent extraordinary circum-**
14 **stances, requests for continuances will not be considered unless**
15 **submitted in writing no less than seven (7) days prior to the**
16 **scheduled conference.**

17 The parties may submit a short Confidential Early Neutral
18 Evaluation Conference Statement prior to the conference. The
19 parties are also encouraged to lodge with Magistrate Judge Papas'
20 chambers a chronology, setting forth a timeline of the factual
21 events that are the basis for the claims and defenses asserted in
22 this litigation. If submitted, the chronology should be in a chart
23 or column format with the column headings "DATE" and "EVENT" and may
24 be annotated with documents significant to the facts or issues.

25 Pursuant to Patent L.R. 2.1.a, the Rule 26(f) conference
26

27 includes that the person's view of the case may be altered during the face
28 to face conference. Id. at 486. A limited or a sum certain of authority
is not adequate. Nick v. Morgan's Foods, Inc., 270 F.3d 590 (8th Cir.
2001).

1 shall be completed no later than 21 days before the ENE.

2 Any objections made to initial disclosures pursuant to
3 Federal Rule of Civil Procedure, Rule 26(a)(1)(A-D) are overruled,
4 and the parties are ordered to proceed with the initial disclosure
5 process. Any further objections to initial disclosure will be
6 resolved as required by Rule 26. The date of initial disclosure
7 pursuant to Rule 26(a)(1)(A-D) shall occur no later than 7 days
8 before the ENE;

9 The parties' Federal Rule of Civil Procedure Rule 26(f)
10 discovery plan including the topics set forth in Patent L.R.
11 2.1.b.1-4 shall be lodged with Magistrate Judge Papas no later than
12 7 days before the ENE;

13 In the event the case does not settle at the Early Neutral
14 Evaluation Conference, the parties shall also be prepared to
15 participate in a Case Management Conference, pursuant to Federal
16 Rule of Civil Procedure 16(b).

17 **Plaintiff's counsel shall notify all Defendants that have not**
18 **yet made an appearance in the case of the date and time of the Early**
19 **Neutral Evaluation and Case Management Conference.** Questions
20 regarding this case may be directed to the Magistrate Judge's
21 research attorney at (619) 557-6384.

22
23 DATED: July 30, 2007

24
25 
26 Hon. Leo S. Papas
27 U.S. Magistrate Judge
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